

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

THOMAS M. SMITH,

Plaintiff,

v.

Case No. 14-cv-514-JPG-SCW

JEFFERY S. WALTON, M. WINKLMEIER, M.  
BAGWELL, D. SZOKE, ROBERT KING, PAUL  
HARVEY, LESLEE DUNCAN BROOKS, FERNANDO  
CASTILLO, BENJAMIN CULLERS, PATRICK  
CUNNINGHAM, J. SMITH, D. HUGGINS, J. DAVID,  
C. BROOKS, ERIC EDMISTER, MICHELLE DAUN,  
ROBYN BRYSON, E. GARCIA, D. SPROUL, H.  
CLARK, STEIMETZ, J. WEBBER and UNITED  
STATES OF AMERICA,

Defendants.

**MEMORANDUM AND ORDER**

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 152) of Magistrate Judge Stephen C. Williams recommending that the Court grant the motions for summary judgment filed by defendant Sproul (Doc. 142) and all other remaining defendants (Doc. 129) because plaintiff Thomas M. Smith failed to exhaust his administrative remedies and because some defendants are entitled to Public Health Service officer immunity.

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the Report. The Court has reviewed the entire file

and finds that the Report is not clearly erroneous. Accordingly, the Court hereby:

- **ADOPTS** the Report in its entirety (Doc. 152);
- **GRANTS** the motions for summary judgment filed by defendant Sproul (Doc. 142) and all other remaining defendants (Doc. 129);
- **DISMISSES with prejudice** Count 2 (deliberate indifference to medical needs) against defendants M. Bagwell and Paul Harvey. The Court notes that Smith's Federal Tort Claims Act claim based on the same conduct has already been dismissed with prejudice (Doc. 144);
- **DISMISSES without prejudice** the remaining claims in this case for failure to exhaust administrative remedies; and
- **DIRECTS** the Clerk of Court to enter judgment accordingly.

**IT IS SO ORDERED.**

**DATED: February 17, 2016**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**